

REMARKS

I. Introduction

In response to the Office Action dated December 9, 2009, please consider the following remarks and evidence. Claims 20-22, 44-46 and 48-57 remain in the application. Re-examination and re-consideration of the application, as amended, is requested.

II. The Cited References and the Subject Invention

A. The Sie Reference

U.S. Patent No. 7,240,359 issued to Sie discloses a programming distribution system. A first set of programs is transmitted in real time according to a schedule of programming. A second set of programs is stored on a server, with at least one of the first set of programs having a counterpart in the second set of programs. A request from a user for program control over one of the programs in the first set of programs is detected. A determination whether the requested program has a counterpart program stored on the server is made. If so, the counterpart program from the server is played under the control of the user.

B. The Reynolds Reference

U.S. Patent No. 6,934,963, issued to Reynolds discloses an interactive television program guide with passive content. The hybrid passive-interactive program guide is generated by combining the features of an interactive program guide with the passive video portion of a passive program guide. The interactive guide may replace passive listings with interactive listings, replace passive features with interactive features, provide supplemental advertisements, or replace passive tagging information with interactive tagging information. Users may be provided with an opportunity to purchase a program or product being advertised, to view listings for segments aired in the video portion of the passive guide, to schedule reminders for listings or video segments that are displayed by the passive guide, or to schedule video segments and related information for recording.

C. The Okura Reference

U.S. Patent No. 6,487,722 issued to Okura discloses an EPG transmitting and receiving apparatus. The broadcast hour and the title of a program is displayed in an EPG (Electronic

Program Guide). If the charge of the program is lower than the other corresponding programs, a symbol "Discount" is also displayed. If the program is the last one of NVOD (Near Video On Demand) programs, a symbol "Last" is also displayed.

III. Office Action Prior Art Rejections

In paragraph 4, the Office Action rejected claims 20-21, 44-45, 48 and 50-52 under 35 U.S.C. § 102(b) as unpatentable over Sie. Also, in paragraph 6, the Office Action rejected claims 22 and 46 under 35 U.S.C. § 103 as unpatentable over Sie in view of Reynolds. Finally, in paragraph 7, the Office Action rejected claims 49 and 53-57 under 35 U.S.C. § 103 as unpatentable over Sie in view of Okura.

The Applicant respectfully requests entry of the attached Declaration under 37 C.F.R. §1.131 and related exhibits. This declaration constitutes evidence that the invention was conceived before the earliest priority date of the Sie reference and diligently reduced to practice. (See MPEP § 21141, citing *Haskell v. Coleburne*, 671F.2d 1362, 213 USPQ 192, 195 (CCPA 1982 and stating "The diligence of attorney in preparing and filing patent application inures to the benefit of the inventor. Conception was established at least as early as the date a draft of a patent application was finished by a patent attorney on behalf of the inventor.")

Since the Sie reference is relied upon for all outstanding rejections and has been antedated by the declaration and evidence described above, the Applicant respectfully traverses the foregoing rejections, and requests allowance of the application.

IV. Conclusion

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicants' undersigned attorney.

Should any fees be associated with this submission, please charge Deposit Account 50-0383.

Respectfully submitted,

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